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DOROTHY BROWN
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2018CH14812

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

ORLANDO JONES and RODNEY SHELTON,
individually and of behalf of all others similarly
situated,

Plaintiffs,

v.

CITY OF CHICAGO,
a Municipal Corporation,

Defendant.

)
)
) **CLASS ACTION COMPLAINT**
)
) **2018CH14812**
) **Case No. _____**
)
)
) **JURY DEMAND**
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)
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COMPLAINT

Plaintiffs Orlando Jones and Rodney Shelton (“Plaintiffs”), individually and on behalf of a class of all others similarly situated, complain against Defendant City of Chicago (the “City” or “Defendant”) as follows:

INTRODUCTION

1. All Chicago residents operating a vehicle in the City of Chicago are subject to the Chicago Wheel Tax and must purchase and display a Chicago City Vehicle Sticker. Depending on the type of vehicle, the City’s vehicle stickers can cost up to several hundreds of dollars every year. Failure to purchase and display a City sticker can result in hefty fines and penalties.

2. In fact, City sticker violations are one of the priciest tickets motorists can get in the City, the cost of which increased 67 percent as part of the City’s 2012 budget. *See* Melissa Sanchez and Elliott Ramos, *Chicago Hiked the Cost of Vehicle City Sticker Violations to Boost Revenue. But It’s Driven More Low-Income, Black Motorists Into Debt*, PROPUBLICA ILLINOIS (July 26, 2018), <https://www.propublica.org/article/chicago-vehicle-sticker-law-ticket-price-hike-black-drivers-debt>.

3. A citation for not having a City sticker now carries a \$200 fine, “an amount that, with late penalties and collections fees, quickly can rise to \$488 and become a financial burden for families.” *Id.*

4. To make matters worse the City has also engaged in an illegal practice of issuing duplicative City sticker tickets – *i.e.*, issuing two or more City sticker tickets to the same vehicle on the same day, a practice specifically prohibited under the Municipal Code of Chicago (“MCC”). *See* MCC § 3-56-150(b) (“A separate and distinct offense shall be considered as committed for *each and every day* any vehicle is used upon the public ways of the city ... without having complied with the provisions of this chapter.”) (emphasis added).

5. The reason the City does this is simple: money. The more citations it issues the more revenue it generates. Indeed, the admitted reason for drastically increasing the City sticker fine in 2012 was to boost revenue, an idea that was based on a number of flawed assumptions and, ultimately, caused more harm than good:

[Then-City Clerk Susana Mendoza] projected a windfall in testimony at an October 2011 City Council budget hearing. *** Her projections appear to have been based on assumptions that everybody who gets a ticket pays it, and that the number of total citations is similar year to year. Both assumptions are false. Few motorists pay city sticker tickets, a trend that has held steady both before and after the price increase. *** Meanwhile, debt has skyrocketed. Drivers owe the city about \$16.8 million for unpaid sticker tickets, late fines and collections fees from citations issued in 2011. They owe nearly twice that amount for unpaid tickets issued in 2012. And that debt keeps climbing.

Melissa Sanchez and Elliott Ramos, *Chicago Hiked the Cost of Vehicle City Sticker Violations to Boost Revenue. But It's Driven More Low-Income, Black Motorists Into Debt*, PROPUBLICA ILLINOIS (July 26, 2018), <https://www.propublica.org/article/chicago-vehicle-sticker-law-ticket-price-hike-black-drivers-debt>.

6. Consequently, according to a recent study, unpaid ticket debt is driving a spike in bankruptcy filings in Chicago, predominantly in minority communities:

Because of a boom in Chapter 13 filings, the U.S. Bankruptcy Court for the Northern District of Illinois, which includes Chicago, had more consumer filings in 2015 than any other district in the country.

Why this is happening can be traced to the sort of run-of-the-mill financial hit many Americans face: traffic-related tickets. In Chicago, the failure to pay such tickets can result in a suspended driver's license or impounded car, crucial lifelines to many low-income families.

[W]e note that the rise in Chapter 13 filings has mainly been driven by black, low-income debtors unable to pay tickets owed to the City of Chicago. By filing under Chapter 13, these people are trying to keep their cars or licenses. Chapter 13 stops seizures and suspensions as long as debtors can keep up payments, but the data shows that most can't.

Paul Kiel and Hannah Fresques, *Chicago's Bankruptcy Boom*, PROPUBLICA ILLINOIS (Sept. 28, 2017), <https://www.propublica.org/article/chicagos-bankruptcy-boom>.

7. As other commentators have observed:

For Chicago's working poor, and particularly for African Americans, a single unpaid ... ticket can quickly spiral out of control and threaten their livelihoods. *** Legal experts say what's happening in Chicago's bankruptcy courts is unique. Parking, traffic, and vehicle compliance tickets prompt so many bankruptcies the court here leads the nation in Chapter 13 filings. *** Advocates for the poor say the bankruptcy statistics are symptoms of a broken city system that unfairly burdens those least able to afford tickets, much less late fees and other penalties.

Melissa Sanchez and Sandhya Kambhampati, *How Chicago Ticket Debt Sends Black Motorists Into Bankruptcy*, PROPUBLICA ILLINOIS (Feb. 27, 2018), <https://features.propublica.org/driven-into-debt/chicago-ticket-debt-bankruptcy/>; *see also* Fran Spielman, *City urged to go easy on scofflaws after study shows minorities bear the brunt*, SUN TIMES, June 21, 2018, <https://chicago.suntimes.com/politics/city-urged-to-go-easy-on-scofflaws-after-study-show-minorities-bear-the-brunt/> ("Motorists from low- and moderate-income and minority neighborhoods also were more likely to have their driver's licenses suspended; more prone to let

their tickets go unpaid, triggering hefty penalties, and 50 percent more likely to be driven into bankruptcy.”) (citing *The Debt Spiral: How Chicago’s Vehicle Ticketing Practices Unfairly Burden Low-Income and Minority Communities*, WOODSTOCK INSTITUTE (June 2018), <https://woodstockinst.org/research/reports/debt-spiral-how-chicagos-vehicle-ticketing-practices-unfairly-burden-low-income-and-minority-communities/>).

8. Not surprisingly, “[u]npaid [City] sticker tickets have contributed to an explosion in Chapter 13 bankruptcies in Chicago.... These citations, according to the city’s ticket data, represent one in four tickets connected to bankruptcies.” Melissa Sanchez and Elliott Ramos, *Chicago Hiked the Cost of Vehicle City Sticker Violations to Boost Revenue. But It’s Driven More Low-Income, Black Motorists Into Debt*, PROPUBLICA ILLINOIS (July 26, 2018), <https://www.propublica.org/article/chicago-vehicle-sticker-law-ticket-price-hike-black-drivers-debt>.¹

9. As these studies have concluded, this is “a problem fueled ... by the city’s increasingly aggressive ticketing to boost revenue.” Melissa Sanchez and Sandhya Kambhampati, *How Chicago Ticket Debt Sends Black Motorists Into Bankruptcy*, PROPUBLICA ILLINOIS (Feb. 27, 2018), <https://features.propublica.org/driven-into-debt/chicago-ticket-debt-bankruptcy/>.

10. One of these aggressive ticketing practices is the duplicative issuance of tickets being challenged here. In fact, an investigation by ProPublica Illinois and WBEZ found that “the duplicate tickets disproportionately affect the drivers in low-income and black communities, including many families struggling to get by....” Melissa Sanchez and Elliott Ramos, *Three City Sticker Tickets on the Same Car in 90 Minutes?*, PROPUBLICA ILLINOIS (June 27, 2018),

¹ At least one City official responsible for the exorbitant fines that accompany these violations, former City Clerk Susana Mendoza, has since “expressed regret over her role in increasing the cost of sticker tickets at the expense of low-income black Chicagoans.” *Id.*

<https://www.propublica.org/article/chicago-city-sticker-double-tickets> (further noting that “[m]ajority black neighborhoods on the city’s South and West sides — including West Englewood, Woodlawn and North Lawndale — see the highest rates of duplicate ticketing....”).

11. After the ProPublica story exposed the City’s illegal conduct, the City claimed that it was “taking [the issue] seriously” and was looking into “reasonable next steps,” including refunds of amounts paid and the cancelling of debt owed on duplicative tickets. *Id.* (“City officials are now looking at whether this violates a city ordinance and say motorists might be in for a refund. *** Kristen Cabanban, a finance department spokeswoman, said the city is looking into ‘responsible next steps’ that may include refunding money to drivers or canceling other unpaid tickets. ‘We are taking this seriously,’ she said in a written statement.”). Many city officials even privately acknowledged that what the City was doing was illegal. *See* Melissa Sanchez and Elliot Ramos, *What’s the City of Chicago Doing About Its Problem With Duplicate Sticker Tickets?*, PROPUBLICA ILLINOIS (Aug. 9, 2018), <https://www.propublica.org/article/city-of-chicago-duplicate-sticker-tickets-practices> (“Many city officials privately acknowledge the city ordinance ... makes clear that a vehicle can be cited only once a day.”).

12. But this was all lip service. No steps were taken by the City to remedy its illicit conduct, much less any “reasonable” ones. Instead, the City falsely suggested that it would properly remediate affected motorists then did nothing in the hopes that it would all blow over.

13. In fact, when ProPublica did a follow up story weeks later after no refunds were forthcoming, the City reversed courses: “The City of Chicago has a message for drivers who received more than one sticker ticket in a single day: Take us to court.” *Id.* Plaintiffs intend to do just that on behalf of not only themselves but all others affected by the City’s illegal duplicative ticketing practice.

14. In short, the City hammered its most vulnerable citizens with illegal and duplicative tickets, falsely assured the public that it would remedy the situation then stiffed affected motorists and kept all of the illegal fines and penalties for itself. Plaintiffs bring this suit to get the City to do what it should have done in the first place and which it initially said it was going to do on its own: provide refunds of the illegal fines and penalties and extinguish the unlawful debt.

PARTIES

15. Plaintiff Orlando Jones (“Jones”) is an individual who resides in Cook County, Illinois. On November 15, 2015, a vehicle registered to Jones was cited twice for “No city sticker vehicle under/equal to 16,000 lbs.” On November 15, 2015, a vehicle registered to Jones was also cited twice for “Expired plates or temporary registration.” On February 12, 2018, a different vehicle registered to Jones was cited twice for “Expired plates or temporary registration.” As explained below, Jones paid or partially paid the amounts assessed in connection with these citations under duress.

16. Plaintiff Rodney Shelton (“Shelton”) is an individual who resides in Cook County, Illinois. On October 2, 2014, a vehicle registered to Shelton was cited twice for “No city sticker vehicle under/equal to 16,000 lbs.” On October 2, 2014, a vehicle registered to Shelton was also cited twice for “Expired plates or temporary registration.” As explained below, Shelton paid the amounts assessed in connection with these citations under duress.

17. Defendant City of Chicago is an Illinois Municipal Corporation.

JURISDICTION AND VENUE

18. Jurisdiction is proper pursuant to 735 ILCS 5/2-209(a)(1), (b)(3) and (c) and venue is proper pursuant to 735 ILCS 5/2-101 because Plaintiffs are residents of Cook County, Illinois,

Defendant is the City of Chicago, and the events and transactions giving rise to the claims asserted herein occurred in Cook County, Illinois.

FACTUAL ALLEGATIONS

19. The Municipal Code of Chicago (“MCC”) explicitly prohibits the City from fining motorists more than once per day for failing to display the City wheel tax license emblem. Specifically, the MCC provides:

Any person who fails ... to display the wheel tax license emblem as required by this chapter shall be fined the vehicle-weight-based amount applicable to a violation of Section 9-64-125 for failure to display the wheel tax license emblem.

A separate and distinct offense shall be considered as committed for ***each and every day*** any vehicle is used upon the public ways of the city without having procured a license and without having complied with the provisions of this chapter.

MCC § 3-56-150(b) (emphasis added).

20. Despite this prohibition, the City routinely issues multiple City sticker tickets to the same vehicle in one day. In doing so, the City acted outside its authority to issue and adjudicate such tickets under its own ordinance. Therefore, all such tickets and the adjudication thereof are void *ab initio*.

21. Relatedly, the City also routinely issues multiple tickets to the same vehicle in one day for expired plates or temporary registration. The City similarly acted outside its authority to issue and adjudicate such tickets. *See* MCC § 9-76-160(b) (“Any person who violates this subsection shall be fined the amount set forth in Section 9-100-020 for *each offense*.”). Therefore, all such tickets and the adjudication thereof are void *ab initio*.

22. Despite the illegality of the City’s conduct, Plaintiffs and other class members had little choice but to pay their fines and penalties. If they did not, the City would garnish their wages, initiate collection actions, and report them to credit reporting bureaus. Other threats the City has

at its disposal for nonpayment include the seizure of vehicles, suspension of driver's licenses, additional penalties, and the imposition of liens on real estate and personal estates. The City also threatens that unpaid fines and penalties will incur interest at 9% per year and that motorists would be liable for any expenses incurred by the City, including attorneys' fees and court costs, in seeking to enforce the amounts purportedly due. In addition, the City puts a "hold" on applications for business licenses made by persons who owe the City debts and also employs the State of Illinois to withhold tax refunds to satisfy unpaid fines and penalties. City employees, like Shelton, are also threatened with the loss of employment absent payment.

CLASS ALLEGATIONS

23. Plaintiffs bring this action pursuant to 735 ILCS 5/2-801 of the Illinois Code of Civil Procedure on behalf of two classes of similarly situated individuals defined as follows:

All individuals and entities who were issued and found liable for more than one City sticker violation, MCC § 9-64-125, in a single day for the same vehicle (the "City Sticker Class").

All individuals and entities who were issued and found liable for more than one expired plates or temporary registration violation, MCC § 9-76-160, in a single day for the same vehicle (the "Expired Registration Class").

24. Plaintiffs also seek to represent two sub-classes defined as follows:

All individuals and entities who were issued and found liable for more than one City sticker violation, MCC § 9-64-125, in a single day for the same vehicle and from whom the City of Chicago received or obtained any payment for any fines, penalties or other amounts assessed in connection with that violation (the "City Sticker Sub-Class").

All individuals and entities who were issued and found liable for more than one expired plates or temporary registration violation, MCC § 9-76-160, in a single day for the same vehicle and from whom the City of Chicago received or obtained any payment for any fines, penalties or other amounts assessed in connection with that violation (the "Expired Registration Sub-Class").

25. The members of the classes and sub-classes are so numerous that joinder of all members is impracticable. According to published reports, the number of duplicative City sticker violations issued by the City is approximately 20,000. *See* Melissa Sanchez and Elliott Ramos, *Three City Sticker Tickets on the Same Car in 90 Minutes?*, PROPUBLICA (June 27, 2018), <https://www.propublica.org/article/chicago-city-sticker-double-tickets>. The number of duplicative expired plates or temporary registration violations will likely be similar to or greater than that amount. The exact number of members of the classes and sub-classes can be determined from records maintained by the City.

26. Common questions exist as to the classes and sub-classes that will predominate over questions, if any, that solely affect individual class members. These common questions include:

- a. Whether the City exceeds its authority under the Municipal Code of Chicago by issuing and adjudicating more than one City sticker violation per vehicle in a single day rendering any such violations illegal and void *ab initio*.
- b. Whether the City exceeds its authority under the Municipal Code of Chicago by issuing and adjudicating more than one expired plates or temporary registration violation per vehicle in a single day rendering any such violations illegal and void *ab initio*.
- c. Whether it was unjust for the City to retain fines, penalties and other amounts for violations when those fines, penalties and other amounts were assessed illegally and are void *ab initio*.
- d. Whether Plaintiffs and class members are entitled to an injunction preventing enforcement of the unlawful and duplicative tickets and prohibiting the City from issuing and adjudicating more than one violation per vehicle in a single day.

27. Plaintiffs will fairly and adequately protect the interests of members of the classes and sub-classes. Plaintiffs have retained competent counsel experienced in class action litigation in state and federal courts. Plaintiffs have no interest adverse to any members of the classes and

sub-classes. Plaintiffs intend to prosecute this case vigorously on behalf of themselves and the classes and sub-classes.

28. A class action is an appropriate method for the fair and efficient adjudication of this controversy because it involves the legality of a ticketing practice that applies equally to Plaintiffs and all members of the classes and sub-classes. A class action can therefore best secure the economies of time, effort, and expense while accomplishing the ends of law and equity that this action seeks to achieve.

COUNT I

Declaratory and Injunctive Relief on Behalf of the City Sticker Class

29. Plaintiffs adopt and incorporate by reference all prior paragraphs as if fully set forth herein.

30. Pursuant to 735 ILCS 5/2-701(a), this Court may “make binding declarations of rights, having the force of final judgments ... including the determination ... of the construction of any statute, municipal ordinance, or other governmental regulation ... and a declaration of the rights of the parties interested.” Such a declaration of rights “may be obtained ... as incident to or part of a complaint ... seeking other relief as well.” 735 ILCS 5/2-701(b).

31. Plaintiffs seek a judgment declaring that the City acts unlawfully and outside its authority under the Municipal Code of Chicago by issuing and adjudicating more than one City sticker violation per vehicle in a single day and, therefore, that any liability and any fines, penalties or other amounts stemming from such duplicative violations are void *ab initio* and unenforceable.

32. Plaintiffs have a personal claim which is capable of being affected. As detailed above, this case presents an actual controversy that requires an immediate and definitive determination of the parties’ rights.

WHEREFORE, Plaintiffs pray that the Court:

- A. Certify this case as a class action, designate Plaintiffs as class representatives and appoint Plaintiffs' counsel as class counsel;
- B. Declare that the City acts unlawfully and outside its authority under the Municipal Code of Chicago by issuing and adjudicating more than one City sticker violation per vehicle in a single day and, therefore, that any liability and any fines, penalties or other amounts stemming from such duplicative violations are void *ab initio* and unenforceable;
- C. Grant preliminary and permanent injunctive relief preventing enforcement of the unlawful and duplicative City sticker tickets and prohibiting the City from issuing and adjudicating more than one City sticker violation per vehicle in a single day;
- D. Award Plaintiffs and class members restitution in an amount to be determined herein, including pre- and post-judgment interest;
- E. Grant an award of reasonable attorneys' fees and all expenses and costs of this action; and
- F. Order such other and further relief as this Court deems equitable, just and proper.

COUNT II

Unjust Enrichment on Behalf of the City Sticker Sub-Class

33. Plaintiffs adopt and incorporate by reference all prior paragraphs as if fully set forth herein.

34. The City has demanded and received fines, penalties and other amounts from Plaintiffs and other members of the City Sticker Sub-Class for duplicative City sticker violations that were issued without authorization under the Municipal Code of Chicago. Therefore, all such liabilities, fines, penalties and other amounts stemming from such violations are illegal and void

ab initio.

35. Thus, the City has collected fines, penalties and other amounts from Plaintiffs and members of the City Sticker Sub-Class to which it was not entitled. The City knowingly appreciated and accepted this benefit, which has resulted and continues to result in an inequity to Plaintiffs and members of the City Sticker Sub-Class.

36. The City has thus unjustly received and retained a benefit belonging to Plaintiffs and members of the City Sticker Sub-Class, who have therefore suffered a commensurate detriment.

37. The City's retention of this benefit violates the fundamental principles of justice, equity and good conscience.

WHEREFORE, Plaintiffs pray that the Court:

- A. Certify this case as a class action, designate Plaintiffs as class representatives and appoint Plaintiffs' counsel as class counsel;
- B. Award Plaintiffs and members of the City Sticker Sub-Class refunds and/or restitution in an amount to be determined herein, including pre- and post-judgment interest;
- C. Grant an award of reasonable attorneys' fees and all expenses and costs of this action; and
- D. Order such other and further relief as this Court deems equitable, just and proper.

COUNT III

Declaratory and Injunctive Relief on Behalf of the Expired Registration Class

38. Plaintiffs adopt and incorporate by reference all prior paragraphs as if fully set forth herein.

39. Pursuant to 735 ILCS 5/2-701(a), this Court may “make binding declarations of rights, having the force of final judgments ... including the determination ... of the construction of any statute, municipal ordinance, or other governmental regulation ... and a declaration of the rights of the parties interested.” Such a declaration of rights “may be obtained ... as incident to or part of a complaint ... seeking other relief as well.” 735 ILCS 5/2-701(b).

40. Plaintiffs seek a judgment declaring that the City acts unlawfully and outside its authority under the Municipal Code of Chicago by issuing and adjudicating more than one expired plates or temporary registration violation per vehicle in a single day and, therefore, that any liability and any fines, penalties or other amounts stemming from such duplicative violations are void *ab initio* and unenforceable.

41. Plaintiffs have a personal claim which is capable of being affected. As detailed above, this case presents an actual controversy that requires an immediate and definitive determination of the parties’ rights.

WHEREFORE, Plaintiffs pray that the Court:

- A. Certify this case as a class action, designate Plaintiffs as class representatives and appoint Plaintiffs’ counsel as class counsel;
- B. Declare that the City acts unlawfully and outside its authority under the Municipal Code of Chicago by issuing and adjudicating more than one expired plates or temporary registration violation per vehicle in a single day and, therefore, that any liability and any fines, penalties or other amounts stemming from such duplicative violations are void *ab initio* and unenforceable;
- C. Grant preliminary and permanent injunctive relief preventing enforcement of the unlawful and duplicative expired plates or temporary registration tickets and

prohibiting the City from issuing and adjudicating more than one expired plates or temporary registration violation per vehicle in a single day;

- D. Award Plaintiffs and class members restitution in an amount to be determined herein, including pre- and post-judgment interest;
- E. Grant an award of reasonable attorneys' fees and all expenses and costs of this action; and
- F. Order such other and further relief as this Court deems equitable, just and proper.

COUNT IV

Unjust Enrichment on Behalf of the Expired Registration Sub-Class

42. Plaintiffs adopt and incorporate by reference all prior paragraphs as if fully set forth herein.

43. The City has demanded and received fines, penalties and other amounts from Plaintiffs and other members of the Expired Registration Sub-Class for duplicative expired plates or temporary registration violations that were issued without authorization under the Municipal Code of Chicago. Therefore, all such liabilities, fines, penalties and other amounts stemming from such violations are illegal and void *ab initio*.

44. Thus, the City has collected fines, penalties and other amounts from Plaintiffs and members of the Expired Registration Sub-Class to which it was not entitled. The City knowingly appreciated and accepted this benefit, which has resulted and continues to result in an inequity to Plaintiffs and members of the Expired Registration Sub-Class.

45. The City has thus unjustly received and retained a benefit belonging to Plaintiffs and members of the Expired Registration Sub-Class, who have therefore suffered a commensurate detriment.

46. The City's retention of this benefit violates the fundamental principles of justice, equity and good conscience.

WHEREFORE, Plaintiffs pray that the Court:

- A. Certify this case as a class action, designate Plaintiffs as class representatives and appoint Plaintiffs' counsel as class counsel;
- B. Award Plaintiffs and members of the Expired Registration Sub-Class refunds and/or restitution in an amount to be determined herein, including pre- and post-judgment interest;
- C. Grant an award of reasonable attorneys' fees and all expenses and costs of this action; and
- D. Order such other and further relief as this Court deems equitable, just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues that may be tried and decided by jury.

Dated: November 29, 2018

Respectfully submitted,

By: /s/ Jacie C. Zolna
One of Plaintiffs' Attorneys

Myron M. Cherry
mcherry@cherry-law.com

Jacie C. Zolna
jzolna@cherry-law.com

Benjamin R. Swetland
bswetland@cherry-law.com

Jessica C. Chavin
jchavin@cherry-law.com

MYRON M. CHERRY & ASSOCIATES LLC
30 North LaSalle Street, Suite 2300
Chicago, Illinois 60602
(312) 372-2100
Firm No. 39807

Attorneys for Plaintiffs and the Classes and the Sub-Classes